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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,478	01/28/2000	Patrick Dana Simpson	SMTT 320	2300

7590

04/11/2002

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EXAMINER

WERNER, FRANK E

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 04/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/493478

Applicant(s)

Patrick Dana Simpson et al

Examiner

F.E. Werner

Group Art Unit

3652

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on Dec 18, 2001
- ☐ This action is FINAL
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-11 is/are pending in the application.
- Of the above claim(s) 11 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-10 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s): 547
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

1. The entire specification is objected to and must be proofread (line-by-line) and corrected for errors that are illustrated by the following: page 6, line 24, the spelling of "rotatably" is incorrect as is the same element on page 7, line 10.
2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re claim 1, no vehicle structure has been set forth as has no first frame and second frame structure; moreover, it is not understood where the first frame and second frame are structurally located relative to the vehicle and to each other; further, no motive means has been set forth to rotate the drive wheel, it is not understood how structurally the drive wheel is supported on the arms and how (and where) the arms are mounted on the first frame; "the arms" (lines 8 and 11) lack antecedent basis, no urging means (lines 8 and 9 and line 11) have been set forth and it is not understood how the locking system functions. Re claim 2, "the arms" (line 6) lack antecedent basis and it is not understood how the "first arm member" and "second arm member" relate to the "arms" and the "third arm member". Re claim 5, it is not understood how the prime mover related to at least the axle. Re claim 6, it is not understood what the elevatable support is structurally comprised of and how it <sup>is</sup> related structurally to the first frame; note that "A loading frame" (line 1) is an inconsistent preamble relative to at least base claim 1. Re claims 7 and 8, again an inconsistent preamble is present. Further, re claim 7, it is not understood how the second frame relates structurally to the guide system since motion of the second frame has not been claimed. Re claim 8, "the rail" (line 2) lacks

Art Unit: 3652

antecedent basis. Re claim 9, again no movement of the second frame has been claimed thus leading to speculation as to the cooperative relationship of the rails. Re claim 10, "the rear end portion" (line 3) lacks antecedent basis.

3. The failure to apply the prior art to claims<sup>1-10</sup> should not be construed as an indication of allowable subject matter. Because these claims so seriously fail to meet the requirements of 35 USC 112, second paragraph for the reasons stated above, it is not possible to apply the prior art to the claims in deciding patentability without disregarding portions of the express wording of the claims and thus resorting to speculation and conjecture as to the particular invention defined therein. See Ex parte Lyell, 17 USPQ2d 1548, 1552.

4. Claim 11 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication should be directed to F. E. Werner at telephone number 703-308-1140.

Werner/cw  
April 9, 2002

Summary:

Claims 1-10 are rejected.  
Claim 11 is withdrawn.  
Rejection – SSP 3 mos.

*Frederick E. Werner*  
F. E. WERNER  
PRIMARY EXAMINER 4/02  
ART UNIT 3652